IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13252 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAGDISH ALIAS JAGO POPATBHAI PARMAR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 13252 of 2003

MS KRISHNA U MISHRA for Petitioner No. 1

MR AMRISH K PANDYA for Petitioner No. 1

MR RM CHAUHAN Ld. AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE J.R.VORA

Date of decision: 08/10/2003

ORAL JUDGEMENT

By way of this special civil application, the petitioner has challenged the order of detention passed

against him by the District Magistrate, Bhavnagar on 24.4.2003 under the exercise of powers under sec. 3(2) of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as "the PASA Act" for short).

The grounds served upon the petitioner and placed on record reveal that the detaining authority relied upon nine offences registered against the petitioner under sec. 379 of IPC for the theft of two wheelers vehicles like Hero Honda and Luna Moped on 26.5.2002, 6.7.2002, 16.8.2002, 27.8.2002, 14.10.2002, 1.11.2002, 8.11.2002, 9.11.2002 and 7.2.2003. The detaining authority took into consideration four statements of witnesses recorded in-camera by the sponsoring authority on 8.4.2003 and verified by the detaining authority on 21.4.2003. Each statements reveal incidents either occurred before 20 days, one month, one and half month etc. before recording of the statements. From the above material, the order impugned came to be passed on the ground that the invoking of the detention law was inevitable for prevention of the activities of the petitioner.

Heard ld. advocate Mr. Pandya for Ms. KU Mishra for the petitioner and ld. AGP Mr. Chauhan for the respondents were heard at length.

Out of various contentions raised on behalf of the petitioner and controverted by ld. AGP, it appears that the matter can be disposed of on the ground that whether subjective satisfaction of the detaining authority as to disturbance of the public order by the activities of the petitioner is proper or not. So far as the offences, in all, nine in number, registered against the petitioner can hardly be said that under sec. 379 of IPC, disturbed the public order. So far as the statements recorded by the sponsoring authority, it appears that the incidents are individual quarrels picked up by the petitioner cannot be said to be the activities prejudicial to the public order. It is always degree and extent of the reach of the objectional activity upon the society which is fatal for considering the question whether man has committed only a breach of law and order or has acted in a manner which may likely to cause disturbance to public order. When the objectional activities were examined, it is found that at the most these activities can be taken care by maintenance of law and order and cannot be said to be an activities affecting the public order. As discussed above, there

was no enough material in totality of facts and circumstances of the case before the detaining authority to come to the conclusion that the activities of the petitioner were prejudicial to the public order. Therefore, the order impugned, is required to be quashed and set aside on this ground alone.

In the result, this special civil application is allowed. The order impugned in this special civil application passed on 24.4.2003 by the District Magistrate, Bhavnagar under the PASA Act against the petitioner is quashed and set aside. The petitioner is directed to be set at liberty forthwith, if he is not required to be detained in jail for any other purpose. Rule made absolute with no order as to costs.

(J.R. VORA, J.)

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